

**THE CITY OF NEW YORK
LAW DEPARTMENT**

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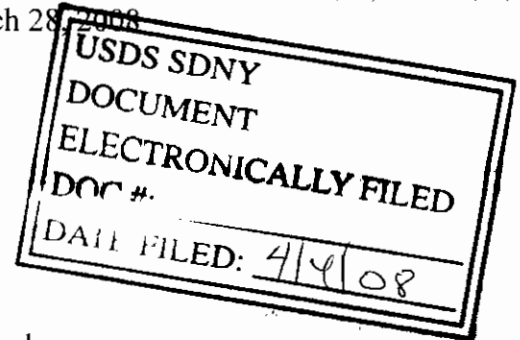
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MEMO ENDORSED

March 28, 2008

BY HAND DELIVERY

The Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007



Re: Andres Luna v. City of New York, et al.
07 CV 7096 (RJS)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above-referenced matter. For the reasons set forth herein, defendants respectfully request an order compelling plaintiff to provide this office with a reasonable settlement demand and all outstanding discovery by April 4, 2008. Defendants also respectfully request a brief extension of the discovery deadline for the sole purpose of conducting plaintiff's deposition once all outstanding discovery is received from plaintiff.¹

On or about December 18, 2007, the parties appeared for an initial conference. At that time, the parties entered into a discovery schedule and agreed to appear at a settlement conference before Magistrate Judge Freeman sometime after February 11, 2008. That date was selected in order to allow time for the parties to exchange initial disclosures and document requests, as well as to allow time for plaintiff to provide defendants with a reasonable settlement demand. In accordance with this scheduling order, defendants served plaintiff with their initial disclosures and discovery requests on January 2, 2008. At that time, defendants requested that plaintiff provide them with a reasonable settlement demand so that they may evaluate this matter for settlement purposes. As no response had been received to defendants' January 2nd requests, by letter dated February 12, 2008, the undersigned again requested that plaintiff provide his initial disclosures and responses to defendants' discovery requests. At that time, defendants

¹ Defendants have attempted to comply with Your Honor's Individual Rules requiring the parties to submit a single joint letter detailing any discovery disputes. However, plaintiff's counsel has failed to return the messages I have left for him.

again requested that plaintiff provide a reasonable settlement demand in advance of any conference scheduled by the Court.

A pre-settlement conference was scheduled before Judge Freeman on February 27, 2008. In advance of this conference, by letter dated February 19, 2008, the undersigned once again requested the outstanding discovery and that plaintiff provide a reasonable settlement demand. After the February 27th conference, plaintiff's counsel informed the undersigned that he would provide defendants with all of the outstanding requests on February 29th. Defendants finally received plaintiff's initial disclosures on or about March 17, 2008. However, plaintiff has still failed to respond to defendants' interrogatories and discovery requests that were served on January 2, 2008, nearly three months ago. Additionally, plaintiff has failed to provide a reasonable settlement demand which has limited defendants' ability to assess this matter for settlement purposes.

In addition, without plaintiff's responses to defendants' discovery demands, defendants are not in a meaningful position to prepare for plaintiff's deposition. Defendants would like the opportunity to review plaintiff's responses and process the necessary releases that were requested as part of defendants' First Set of Interrogatories and Requests for Production of Documents prior to conducting plaintiff's deposition.

Accordingly, for the reasons stated herein, defendants respectfully request that plaintiff be compelled to respond to all outstanding discovery by April 4, 2008. In addition, defendants respectfully request an additional thirty days from the date of receipt of plaintiff's responses to complete fact discovery and conduct plaintiff's deposition.

Respectfully submitted,



Jessica T. Cohen (JC 0044)
Assistant Corporation Counsel

cc: Rudy Velez, Esq. (by first-class mail)
Attorney for Plaintiff

*The parties are to
appear before the Court
for a Conference ~~set for~~ on
April 7, at 2:15 PM.*

SO ORDERED

Dated: *4/4/08*

[Signature]
RICHARD J. SULLIVAN

U.S.J.